

**TENTATIVE AGENDA
VIRGINIA WASTE MANAGEMENT BOARD MEETING**

**THURSDAY, APRIL 25, 2002
HOUSE ROOM C, CAPITOL SQUARE
RICHMOND, VIRGINIA**

Convene – 10:00 AM

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Adjourn

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT VIRGINIA WASTE MANAGEMENT BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory actions. These procedures establish the times for the public to provide appropriate comment to the Board for their consideration. In light of these established procedures, the Board accepts public comment on regulatory actions, as well as general comments, at Board meetings in accordance with the following:

1. REGULATORY ACTIONS (adoption, amendment or repeal of regulations): Public participation for regulatory actions is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period and one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is announced in the Virginia Register. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

Comments on the regulatory action are not allowed at a Board meeting while a regulatory action is being processed in accordance with the Administrative Process Act. In rare instances the Board may (at a Board meeting) vote to reopen the public comment file on the regulatory action. If this happens, individuals may address the Board for up to 2 minutes on material previously submitted to the Board. Should the Board decide to accept new information on a regulatory action, an additional public comment period will be announced by the Department in order for all interested persons to have an opportunity to participate.

2. PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than pending regulatory actions or pending case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 2 minutes.

The Board reserves the right to alter the time limitations set forth above without notice and to ensure comments presented at the meeting conform to this policy.

Additional Information: For additional information or questions on the adopted public participation procedures for regulatory actions contact Cindy M. Berndt at (804) 698-4378.

CURRENT SIGNIFICANT NON-COMPLIERS UPDATE
HAZARDOUS AND SOLID WASTE PROGRAMS
April 2002

The following report identifies facilities with significant unresolved violations of the Virginia Hazardous Waste Management Act and permitted facilities with significant unresolved violations of the Virginia Solid Waste Management Act. This report also includes case resolutions for facilities identified in the December 2001 report.

Pending Actions

HAZARDOUS WASTE

City of Chesapeake

Solid and hazardous waste were discovered buried on property owned by the City of Chesapeake. An investigation was conducted and several areas of waste, including buried drums of hazardous waste, were excavated and removed for proper disposal. A consent order including a civil charge is under negotiation. The Department is working with the City on the development of a Supplemental Environmental Project.

DuPont Performance Coatings (Front Royal, VA)

Based on an inspection, this facility was found to be in violation of several provisions of the hazardous waste management regulations including, storage without a permit, container management and record keeping requirements. No release of hazardous waste was observed. The facility and DEQ have not reached consensus on the applicability of Subparts BB & CC of 40 CFR Part 265 to certain of the facility's solvent distillation processes. The applicability of these same provisions at similar facilities is presently under evaluation at the national level. Based on its unresolved status, DEQ is deferring enforcement action on the Subpart BB/CC issues at this time. DEQ has discussed our approach with EPA Region III and they concur. DEQ is presently negotiating a Consent Order with a civil charge to address the balance of the violations. DuPont has indicated interest in performing a Supplemental Environmental Project in partial offset of the civil charge.

Emporia Foundry (Emporia)

A joint inspection by DEQ and EPA revealed numerous alleged violations concerning the facility's sampling and analysis procedures that resulted in the storage and disposal of hazardous waste without a permit. Joint negotiations are underway with DEQ, EPA and the facility. DEQ recently met with the facility concerning closure of the hazardous waste management unit.

Great Bridge Cleaners (City of Chesapeake)

This facility was notified of a potential violation for the alleged disposal of hazardous waste on the property. The EPA Superfund program evaluated the site for a potential removal action. The Department is reviewing options for proceeding with the case and will be consulting with EPA on the case in the near future.

Hand Craft Cleaners and Launderers, Inc. (Chesterfield County)

This facility has failed to provide financial assurance as required by a previous consent order for closure of two separate hazardous waste units. A meeting was held with the facility to discuss the violations. The facility has provided additional financial assurance documents that are currently being evaluated by staff. The department will pursue negotiation of a consent order containing a civil charge.

Hoover Treated Wood Products, Inc. (Caroline County)

Hoover has completed closure of soils for an unpermitted disposal area and closure of an unpermitted treatment area pursuant to a consent order. Hoover is required by the order to submit a post-closure permit application for cleanup of groundwater at the unpermitted disposal area. Submission of the permit application was delayed while DEQ reviewed and approved the facility's groundwater monitoring and corrective action plans. Both plans have been reviewed and approved by DEQ, and Hoover is scheduled to submit the post-closure permit application in May 2002.

Parker Hannafin Corporation (Lynchburg)

A Notice of Violation was issued on January 3, 2002 for alleged violations of the hazardous waste management regulations concerning container management and labeling, maintenance of adequate aisle space and designation of emergency personnel. A consent order with a civil charge is under negotiation.

Roger E. Wells (Washington County)

Mr. Wells was notified of a potential violation for the alleged storage of hazardous waste transported from out of state to his residence for two years without a permit. Mr. Wells has not yet cooperated in the execution of a consent order and the Department is evaluating the case for further action.

School Board of Fairfax County (Fairfax County)

Based on information submitted to DEQ by the School Board, it appears that flooring material from a gym floor replacement project contained elevated levels of mercury, which made the material a hazardous waste. A contractor for the School Board appears to have disposed of the material in violation of the regulations. DEQ is investigating the circumstances of the disposal and evaluating enforcement options.

Triple C Construction (formerly Long Manufacturing) (Petersburg, VA)

This facility failed to complete removal of hazardous waste in accordance with the schedule of compliance in the consent order. The facility also failed to complete closure of the hazardous waste container storage area as required by the approved closure plan and the consent order. A meeting is being scheduled with the facility to discuss the alleged violations.

SOLID WASTE

Marshall Construction (City of Danville)

Marshall Construction disposed of construction waste at several sites. DEQ issued a consent order in 1999 to Marshall for similar violations. This case is under investigation and a draft order is being developed.

Martin Property (Bedford County)

Mr. Martin has been operating an unpermitted landfill for disposal of land clearing debris. He has apparently been charging contractors for disposal of stumps and other wood waste. This case is under investigation and a draft order is being developed.

Oceana Salvage (City of Virginia Beach)

This matter involves a facility owner's alleged failure to comply with an October 27, 1997 consent order requiring hazardous and solid waste unit closures. The owner had asserted a documented inability to pay for the closure and recently passed away. DEQ is negotiating a new consent order with the company

Rivanna Solid Waste Authority / Ivy Landfill (Albemarle County)

The facility is the subject of a July 2000 Consent Order. The Order required final closure of the last remaining unlined cell at the landfill by April 1, 2002. Closure of the cell is underway; however, final closure has not been completed and the deadline has passed. DEQ is evaluating enforcement options.

Resolved Cases

Listed below are cases identified in the December 2001 report that have since been resolved by the Department.

Beck Development Corporation (City of Chesapeake)

This facility was notified of a potential violation involving the storage of 32 drums of hazardous waste without meeting the pre-transport requirements or obtaining a permit. Hazardous waste manifests indicate the drums were properly disposed. Hazardous waste releases were not observed. The Corporation was terminated in April 2001. Further enforcement is not warranted and the alleged violations were returned to compliance.

Dave's Cabinet, Inc. (City of Chesapeake)

Alleged violations involve storage of hazardous waste without meeting the pre-transport requirements or obtaining a permit. The matter was been referred to the Office of the Attorney General for a formal hearing pursuant to Administrative Process Act. A hearing was held on November 16, 2001. The Director issued an order pursuant to Va. Code §1455(G) on February 14, 2002 assessing a penalty of \$15,000. Dave's Cabinet has filed a notice of appeal.

Dispersion Specialties, Inc. (Ashland)

This facility was notified of potential violations involving improper management of hazardous waste containers, pre-transport requirements, accumulation greater than 90 days, record keeping, contingency plans and other miscellaneous violations. A consent order with a civil charge of \$19,000 was executed on February 13, 2002.

Honeywell (Allied Signal—Hopewell)

A multi-media inspection of the facility was conducted jointly by EPA and DEQ. Numerous hazardous waste issues were identified along with potential violations of environmental statutes not enforced by DEQ. Joint negotiations with EPA, DEQ and Honeywell have resulted in a settlement embodied in a federal consent decree and a parallel VA consent order. The combined agreements include a cash penalty of \$150,000 (\$40,000 to VA and \$110,000 to the U.S.) and five supplemental environmental projects (two pollution prevention/reduction and 3 local emergency planning) valued at \$772,000. The public comment period has been completed and the order was executed by DEQ on March 11, 2002. The court has entered the federal consent decree.

IndMar Coatings Corporation (Wakefield)

This facility was notified of potential violations involving improper labeling, storage, and management of hazardous waste containers. In addition, the facility was notified of potential hazardous waste treatment, record keeping, and other miscellaneous violations. A consent order requiring closure of a hazardous waste unit was executed on February 25, 2002.

Internet Corporation (Radford)

This facility was notified of potential violations involving improper storage and disposal of hazardous waste. A consent order was executed on January 7, 2002. The order assessed a civil charge of \$211,800 of which \$134,550 will be satisfied upon the completion of three separate Supplemental Environmental Projects (SEPs). The SEPs require the installation of a closed loop recirculating cooling tower for cooling water, the replacement of a feeder system and the upgrade of an alarm for the Emission Dust Additive Process and the installation of new leak detection monitors on selected baghouses.

Nofs/Seaward International (Clarke County)

Hazardous waste, generated by Seaward, was buried by Mr. Nofs in an open pit on his land. Mr. Nofs was not a permitted transporter nor was his facility permitted for the treatment, storage or disposal of hazardous waste. Mr. Nofs is deceased. The site is being evaluated for further action under the brownfield assessment program to assess the potential for residual contamination. Liability comfort letters have been issued to a secured lender and a prospective purchaser of the site. The department is pursuing a nonadversarial approach to returning the property to productive use.

Modular Wood (Patrick County)

Modular Wood violated consent orders issued on August 4, 1999 and September 11, 2000 by failing to submit a Waste Management Plan and by improper land application of waste sawdust. A new order addressing these violations was signed on March 21, 2002 and the comment period ends May 3, 2002. The order includes a civil charge of \$8,100.

Wayn-Tex, Inc. (Waynesboro, VA)

Based on an inspection, this facility was found to be in violation of multiple provisions of the hazardous waste management regulations including, storage without a permit, container management and manifest requirements. No release of hazardous waste was observed. A Consent Order assessing a civil charge of \$21,000 the majority of which will be offset upon completion of a pollution prevention Supplemental Environmental Project has been signed by the company and is currently going through the public notice process.

Regulated Medical Waste Management Regulations

The Regulated Medical Waste Management Regulations, 9 VAC 20-120-10, *et seq.* (RMWMR) establish permit requirements for the storage, treatment and disposal of regulated medical wastes (RMW). Rules for packaging, labeling and transporting RMW, as well as exemptions from regulation, are also included. Five approved treatment processes are provided for as well as provisions for establishing alternate treatment technologies.

Revisions have been made to the definition of regulated medical waste as well as to packaging, labeling and transportation requirements. Redundant sections of the regulation have been eliminated. The regulation has been updated to provide consistency with other bodies of regulation such as the Virginia Department of Labor and Industry's bloodborne pathogen standard and US Department of Transportation's regulations governing the transportation of hazardous materials.

Since the proposal, in response to public comment, changes have been made to the regulation to clarify what is a regulated medical waste and what is exempt from regulation.

Modifications made to the regulations include:

- ?? The definition of regulated medical waste, including the definitions of "blood" and "body fluids" have been updated. The concept of the regulation of human blood and human body fluids is based on the Bloodborne Pathogen Standard 16 VAC 25-90-1910.1030 (29 CFR 1910.1030). Items that are saturated with human blood or human body fluids are considered regulated medical waste. An item is considered saturated if it is capable of releasing human blood or human body fluids in a liquid or semi-liquid state if compressed.
- ?? Provisions of the regulation related to "limited small clinics" have been eliminated and exemptions are based on the volume of waste generated at a facility. If facilities generate less than 100 gallons of regulated medical waste per week and store 200 gallons or less of regulated medical waste they are subject to reduced regulatory requirements. The provisions are designed to allow smaller facilities handling low volumes of waste to comply with prescriptive provisions for holding wastes rather than obtaining a permit-by-rule for on-site storage.

- ?? Changes to the requirements for on-site regulated medical waste storage facilities have eliminated the requirement for a permit-by-rule in lieu of complying with prescriptive provisions for holding wastes. Facilities generating 100 gallons per week or more of regulated medical waste must provide a designated storage area for all areas of the facility storing greater than 200 gallons of regulated medical waste. Specific requirements are provided for designated storage areas.
- ?? Modifications of regulated medical waste packaging requirements have been made so that requirements are consistent with other bodies of regulation including the Bloodborne Pathogen Standard, and the Regulations Governing the Transportation of Hazardous Materials 9 VAC 20-110-10 et seq (49 CFR 171 through 178).
- ?? Modifications to the regulation have been made to coordinate the proposed regulation with the Regulations Governing the Transportation of Hazardous Materials 9 VAC 20-110-10 et seq.
- ?? Modification of the permitting standards of Part X (9 VAC 20-120-680 to 9 VAC 20-120-830) has eliminated the requirements for obtaining a full permit for off-site regulated medical waste management facilities. Permit by rule will now be the only permitting mechanism for off-site facilities.

Changes made since the proposal include:

9 VAC 20-120-130

The definitions of "Empty" and "Contaminated" have been modified for clarity. When modifying the definition of "Empty", a statement has been added in the exemptions indicating that materials are still regulated as "regulated medical waste" if they are subject to regulation under the OSHA bloodborne pathogen standard.

A clarification of the term "caked" was provided.

9 VAC 20-120-150

A clarification was provided indicating all sharps are regulated medical waste including those used in veterinary practice.

9 VAC 20-120-370 and 9 VAC 20-120-440

The section was modified to indicate that if wastes are managed in container that is resistant to the elements a covered loading area is not required.

9 VAC 20-120-450

Requirement for signage on the doors of RMW transporters has been removed.

9 VAC 20-80-590 and 9 VAC 20-80-640

This section has been modified to allow shredding within 24 hours following treatment rather than immediately after treatment

Final Voluntary Remediation Regulations Amendment 1 - 9 VAC 20-160-10, et seq.

Proposed Voluntary Remediation Regulations, 9 VAC 20-160-10, et seq., were presented to the Waste Management Board in May 2001. A public comment period was held from October 22, 2001 through December 27, 2001. Three public hearings were held in November 2001, in the Fredericksburg, Virginia Beach and Roanoke areas. Written comments were received on the proposed regulations. The department is requesting the Waste Management Board to adopt the attached regulations as final regulations.

In response to public comment received, the following changes have been incorporated into the final regulations:

- ?? Language has been added to the regulations to clarify that the risk assessment will include an assessment of risk to surrounding properties.
- ?? Language has been added to the regulations to state that the department may request sampling data from the site or surrounding areas to verify the extent of the contamination. The department currently requests additional information if there is a question concerning the characterization of the release.
- ?? Changes have been made to the criteria for certificate issuance to emphasize that the participant must demonstrate that the site meets remediation levels and that the site will continue to meet remediation levels in the future for both on-site and off-site receptors.

Other changes to the regulations include the deletion of the definition of the word “act” and a change to the date of the Risk-Based Concentration Table to be incorporated into the regulations. EPA’s Region III Risk Based Concentration Table was last updated September 25, 2001, and this version will be used when evaluating sites.

In addition to these changes, statutory references need to be revised prior to finalizing these regulations. During the 2002 General Assembly session, HB 463 was introduced to create the Brownfield Restoration and Land Renewal Act by adding Chapter 12.1 to Title 10.1 of the Code of Virginia. In part, HB 463 relocated the provisions previously located at “ 10.1-1429.1 to “ 10.1-1232 of the Code of Virginia. Changes set out in this Act will become effective July 1, 2002. Statutory references in sections 10 and 60 of the regulations have been changed to reflect the new statutory references. If the Board approves the attached regulations as final, the effective date of the Voluntary Remediation Regulations will be July 1, 2002 in order to coincide with the effective date of the Act. The full text of Chapter 378, 2002 Acts of Assembly can be found at: <http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+CHAP0378>

Report on Waste Program Activities

The following is a brief summary of events that have occurred since the last meeting of the Virginia Waste Management Board. A summary of regulatory projects is attached.

1) Federal and State Brownfields Legislation

On January 11, 2002, the President signed into law the *Small Business Liability Relief and Brownfields Revitalization Act* (Public Law 107-118). The law provides relief from Superfund liability for certain parties; gives federal legislative authority for the brownfields program; expands the current brownfields program by increasing funding authority to \$200 million per year; and provides up to \$50 million per year for state and tribal programs.

In its 2002 session, the Virginia General Assembly also passed legislation addressing brownfields, the *Brownfield Restoration and Land Renewal Act* (House Bill 463) (the Act). This Act declares it to be the policy of the Commonwealth to encourage remediation and restoration of brownfields. The Department and other agencies are to establish policies and programs to implement the legislation. At the time of this report, the time had not passed for the Governor to act on the bill. The enrolled bill consolidates and reorganizes existing provisions related to brownfields and the Voluntary Remediation Program. The Act contains specific liability protections similar to the federal act and creates the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund to provide grants for brownfield renewal projects. Local governments are eligible to receive grants and loans from the fund, and businesses may receive loans for the purposes of promoting the restoration and redevelopment of brownfield sites.

Staff from several of the Department's divisions are working together with staff from other agencies and planning to implement the provisions of the Act.

2) U.S. Supreme Court Denies Appeal of *Waste Management Holdings, Inc., v. Gilmore*

On March 4, 2002, the U.S. Supreme Court denied the Commonwealth's appeal in *Waste Management Holdings, Inc., v. Gilmore*. In so doing, the Court let stand injunctions against several provisions enacted into law by the 1999 General Assembly, including caps on landfill disposal quantities, certifications that waste loads are free of unauthorized substances, and regulations on the commercial transport of solid waste by truck.

3) Director Testifies Before U.S. Senate Committee on Environment and Public Works

On March 20, 2002, Robert G. Burnley, Director of the Department, testified before the U.S. Senate Committee on Environment and Public Works in support of efforts to allow states to regulate interstate waste disposal. Mr. Burnley stated in part:

Governor Warner and I are concerned about interstate waste because landfills consume open space and threaten the quality of our environment. While every state has a responsibility to ensure adequate and safe waste disposal capacity for its citizens, Virginia should not be forced to assume these long-term costs and increased risks for other states. We should not have our hands tied as we attempt to protect ourselves from the onslaught of garbage from other states.

Virginia is second in the nation in the amount of out-of-state waste received. Over the last decade, the amount of out-of-state waste imported to Virginia has more than doubled. In 2000, Virginia imported 4.5 million tons of solid waste. This represents more than twenty percent of Virginia's total waste stream.

...

The Commonwealth seeks the authority to control how our natural resources are consumed and protect the long-term welfare of our citizens. In order to do this, we are asking Congress to grant states the ability to control the importation of garbage. This authority should be simple and flexible enough to meet the needs of all states, without basing it upon the solid waste management system of one particular state.

4) Waste Permit Fee Schedules - House Bill 1257/Senate Bill 592

The General Assembly has passed legislation affecting waste (and water) permit fees. House Bill 1257 and Senate Bill 592 direct the Virginia Waste Management Board to establish permit fee schedules sufficient to cover no more than 20 percent of the direct costs of the hazardous and solid waste management programs, based on amounts in the 2002 Appropriation Act. However, no individual permit fee can increase more than 300 percent. The legislation also imposes a July 1, 2004 sunset on the new fee structure. At the time of this report, the time had not passed for the Governor to act on these bills.

5) Memorandum of Agreement with EPA on Voluntary Remediation Program

On January 9, 2002, the Department entered into a Memorandum of Agreement (MOA) with the U.S. Environmental Protection Agency (EPA) concerning the Department's Voluntary Remediation Program (VRP). The MOA establishes that sites that are enrolled or have completed the VRP will not be the subject of removal or remediation by EPA under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA, or Superfund). Published accounts state that the MOA represents EPA's "vote of confidence" that a state's VRP meets CERCLA requirements, and that EPA will not take action following a cleanup conducted through the VRP unless unique circumstances arise. Virginia is one of 19 states with such MOAs.

6) Tire Fire Response

On March 23, 2002, the largest tire pile in the Commonwealth caught fire. The fire apparently was set in nearby brush and spread rapidly into and through the tire pile, which was estimated to contain 3-4 million tires. The response action began under the joint command of Roanoke County, the Virginia Department of Emergency Management, and EPA; EPA has now taken the lead in managing the fire. This Department, through the West Central Regional Office and the Central Office, is providing technical support and assistance. The Department had entered into an Interagency Contract with the County of Roanoke in November 2001, to provide up to \$1.4 million from the Waste Tire Trust Fund to arrange access to the site, develop a remediation plan, and implement certain clean up activities.

7) Avian Influenza

In early March 2002, an outbreak of avian influenza was reported at several locations in the upper Shenandoah Valley. It now appears that this may be one of the largest outbreaks of avian flu on the East Coast since an epidemic in 1983-84. The Department's Valley Regional Office and Central Office have been working with the State Veterinarian, local officials, and others to supply technical support concerning composting, incineration, landfilling, and/or on-site burial of the carcasses. As of this date, the Department has issued two emergency permits for on-site disposal. Site restrictions, such as set backs from streams and structures, are included as permit conditions for any disposal area in order to protect the public health.

8) Management of Materials Potentially Contaminated with Anthrax

Staff from DEQ have worked closely with EPA, local officials, the U.S. Post Office, private businesses, and others in response to the terrorist letters containing anthrax. The effort has included: (1) clean-ups at two facilities in Virginia that had been cross-contaminated with the bacteria; (2) sterilization of personal effects and other critical items from the U.S. Capitol Complex at a facility in Henrico County; and (3) incineration of materials potentially contaminated with anthrax at a permitted regulated medical waste incinerator in the City of Norfolk. Extraordinary precautions have been taken in the packaging, transport, treatment, or other handling of the materials. Consultations included federal, state, and local elected officials, the Virginia Department of Health (state and local offices), the Virginia Department of Emergency Management, the Virginia State Police, the Centers for Disease Control, U.S. Army Fort Detrick (Maryland), EPA, and others.

9) FFY 2002-2003 Hazardous Waste Management Program Grant Approved

EPA Region III has approved the Department's multi-year assistance application for the Virginia Hazardous Waste Management Program. The award covers federal fiscal years (FFYs) 2002 and 2003, and supports 75% of the costs of the program.

10) Hazardous Waste Compliance Staff Receive Award

EPA Region III has recognized three hazardous waste compliance staff - Steve Frazier (Central Office), Lisa Silvia (Tidewater Regional Office), and Willard Keene (South West Regional Office) - as Outstanding Inspectors of the Year in Region III. The award was given primarily because of the Compliance Assistance Visit (CAV) program that was developed and implemented during FFY 2001. Under the CAV program, hazardous waste compliance inspectors and waste minimization staff visit facilities in industries that usually have little regulatory contact (including marinas and vehicle maintenance facilities). Unless serious violations are found, staff provide the facility with verbal and written assessment of respective program evaluations, but defer potential enforcement actions for minor violations. Staff will follow up with a regular compliance inspection within the year. Because of its success, the Department has continued the program into the current grant.

11) Solid Waste Groundwater Initiative

During the second quarter of calendar year 2002, the Solid Waste Compliance Program will be implementing a groundwater compliance initiative. Compliance staff will be working collaboratively with the solid waste groundwater permitting staff before and after this quarter's inspections to ensure proper evaluation, identification, and correction of non-compliance issues

related to implementation of groundwater monitoring programs at solid waste management facilities. This initiative is being performed in response to a review of the groundwater program, which recommended that the Department concentrate more heavily in this area.

12) Electronics Recycling Project

In December 2001, a Memorandum of Understanding was completed with EPA and all of the states in Region III (Pennsylvania, Delaware, Maryland, the District of Columbia, and West Virginia, as well as Virginia). The MOU is in support of a region-wide pilot project on recycling used electronic devices, such as monitors, central processing units, and computer peripherals. The pilot project has received financial support from the Electronics Industries Alliance, among others. The MOU was completed under an agreement between EPA and the Environmental Council of States (ECOS), which promotes regulatory flexibility in environmental matters where protection of human health and the environment is maintained or enhanced.

Staff from the Department are planning five collection events as part of the pilot project. The first is scheduled for Virginia Beach on May 11, 2002. Others are set for Frederick County, Central Virginia (with the Central Virginia Waste Management Authority), Wise County, and a location to be determined. EPA Region III Administrator Don Welsh has committed to attend at least one of the events.

13) Training for Solid Waste Management Plans

The Department has begun a series of training programs around the state concerning the preparation of Solid Waste Management Plans. New plans are required from local governments or planning units by July 1, 2004. It is anticipated that follow-up training will be given next year. The training is designed to familiarize local officials with the requirements of the plans and to minimize their expense in preparing plans for submission.

14) Use of Recycled Newsprint

The Virginia Press Association has reported on the use of recycled newsprint by newspapers reporting in Virginia during the year 2001. The report indicates that 220,079 short tons of newsprint were used by the newspapers, with 223,526 short tons (90%) containing recycled content. The report was submitted under a resolution of the Board dated December 14, 1990.

15) Regulatory Status

Public Participation Guidelines, 9 VAC 20-10

This regulation establishes guidelines for the participation of interested citizens during all phases of the adoption of new regulations, or the amendment or repeal of existing regulations. A three-year review was completed in 2001. No changes were recommended. The next three-year review will be in 2004.

Mediation and Alternative Dispute Resolution, 9 VAC 20-15

This regulation establishes procedures for the use of mediation and alternative dispute resolution in regulation development and permit issuance. The regulation became final on July 1, 2001. The next three-year review will be in 2004.

Schedule of Fees for Hazardous Waste Facility Site Certification, 9 VAC 20-20

This regulation establishes fees for processing applications for and certifications of off-site hazardous waste facilities. A three-year periodic review was completed in 2001. No changes were recommended. The next three-year review will be in 2004.

1. Technical Assistance Fund Administrative Procedures, 9 VAC 20-30

This regulation establishes procedures for a governing body of a community hosting a hazardous waste facility to obtain technical assistance funds. A three-year periodic review was completed in 2001. No changes were recommended. The next three-year review will be in 2004.

Administrative Procedures for Hazardous Waste Facility Site Certification, 9 VAC 20-40

This regulation establishes administrative procedures for the submission and evaluation of applications for certification of hazardous waste facility sites, public notice, application processing, etc. A three-year periodic review was completed in 2001. No changes were recommended. The next three-year review will be in 2004.

Hazardous Waste Facility Siting Criteria, 9 VAC 20-50

This regulation establishes criteria for site certification under the Hazardous Waste Facility Siting Act, prohibits construction in environmentally sensitive areas, ensures factors are assessed, etc. A three-year periodic review was completed in 2001. No changes were recommended. The next three-year review will be in 2004.

Hazardous Waste Regulations, 9 VAC 20-60

This regulation establishes requirements for the effective management of the generation, transportation, treatment, storage and disposal of hazardous waste in the Commonwealth. The Board approved two final actions on this regulation on January 14, 2002. The first (Amendment 15A) was a comprehensive review of the regulation. The second (Amendment 15B) repealed one provision regarding mixed waste that was susceptible to being read too broadly. These amendments were published in the *Virginia Register* and took effect on March 13, 2002.

Two further actions are contemplated in the near future for this regulation. The first is an immediate final rule to incorporate changes to federal regulations promulgated prior to July 1, 2002. This update will bring Virginia's regulations in line with current federal requirements, and will allow the public to use the most recent volume of the Code of Federal Regulations in conjunction with the additions and exceptions found in the Virginia regulations. The second is an anticipated action with respect to permit fees, as directed by the General Assembly in House Bill 1257 and Senate Bill 592 (assuming approval by the Governor). These bills direct the Board to develop new permit fee schedules sufficient to cover no more than 20 percent of the direct costs of the hazardous and solid waste programs, based on the amounts allocated to these programs in the 2002 Appropriation Act. No individual permit fee can increase more than 300 percent. The legislation also imposes a July 1, 2004 sunset on the new fee structure.

Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities, 9 VAC 20-70

This regulation establishes standards and procedures for financial assurance to be used in the issuance and continuation of solid waste permits and to be used in the performance of corrective actions or in formulation of enforcement documents issued by the Department. The Board approved this regulation on September 14, 2001, and the regulation became effective on November 21, 2001. The next three-year review will be in 2004.

Solid Waste Management Regulations, 9 VAC 20-80

This regulation establishes standards and procedures for the siting, design, construction, operation, maintenance, closure and post-closure care of solid waste management facilities. Amendment 2 to the Solid Waste Management Regulations became effective on May 23, 2001. The Board approved a proposed regulation (Amendment 3), including specific areas for public comment, in the Board meeting of January 14, 2002. Amendment 3 more completely incorporates legislation from the 1999 and 2000 legislative sessions, among other items. The proposed regulation is being reviewed by Department management in response to concerns raised by the public on some of the proposed amendments. A decision on how to proceed is expected in early May 2002.

Regulation Governing Management of Coal Combustion By-Products, 9 VAC 20-85

This regulation provides for the use of coal combustion by-products and establishes appropriate standards for siting, design, construction, operation and administrative procedures pertaining to their use, reuse or reclamation. A three-year periodic review was completed in 2001. No changes were recommended. The next three-year review will be in 2004.

Solid Waste Management Facility Permit Application Fees, 9 VAC 20-90

This regulation establishes schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit or seeking a modification to an existing permit for construction and operation of a solid or regulated medical waste facility. An amendment to these regulations will be necessary, as directed by the General Assembly in House Bill 1257 and Senate Bill 592 (assuming approval by the Governor). These bills direct the Board to develop new permit fee schedules sufficient to cover no more than 20 percent of the direct costs of the hazardous and solid waste programs, based on the amounts allocated to these programs in the 2002 Appropriation Act. No individual permit fee can increase more than 300 percent. The legislation also imposes a July 1, 2004 sunset on the new fee structure.

Vegetative Waste Management and Yard Waste Composting Regulations, 9 VAC 20-101

This regulation establishes appropriate standards for siting, design, construction, operation and closures, and expedited permitting procedures, for certain vegetative waste management facilities, including those for yard waste composting. Preliminary and final three-year reviews were presented to the Board in December 2000 and March 2001. No changes were recommended. The next three-year review will be in 2004.

Regulations Governing the Transportation of Hazardous Materials, 9 VAC 20-110

This regulation establishes how hazardous materials are regulated in transport within the Commonwealth to include how materials will be packaged and marked and how transportation vehicles will be placarded. The regulation also addresses the transportation of hazardous radioactive materials. The Board approved a proposed regulation (Amendment 13) for public comment on January 14, 2002. The amendment is in executive review prior to solicitation of public comment.

Regulated Medical Waste Management Regulations, 9 VAC 20-120

This regulation establishes permit requirements for the storage, treatment and disposal of regulated medical wastes, rules for packaging and labeling the waste, five approved treatment processes, etc. The Board approved a proposed regulation, and public comment period ended January 23, 2002. This regulation is being presented to the Board for approval as a final regulation on April 25, 2002.

Regulations for the Development of Solid Waste Management Plans, 9 VAC 20-130

This regulation provides procedures and standards for establishing the boundaries of planning regions, provides a schedule of objectives for development of plans and planning goals, and establishes required contents of plans. Amendment 1 became effective August 1, 2001. The next three-year review will be in 2004.

Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes, 9 VAC 15-30 (formerly 9 VAC 20-140)

The governing statute requires the Department rather than the Board to issue this regulation. It establishes standards, forms and procedures for the assessment of the equipment, facilities and devices for certification of local tax exemption. The regulation was revised effective August 1, 2001, and will be subject to a three-year review in 2004.

Waste Tire End User Reimbursement Regulation, 9 VAC 20-150

This regulation establishes procedures for applications, processing applications and rates of reimbursement for the end users of waste tires. A three-year review was completed in 2001. No changes were recommended. The next three-year review will be in 2004.

Voluntary Remediation Regulations, 9 VAC 20-160

This regulation establishes standards and procedures pertaining to the eligibility, enrollment, reporting, remediation and termination criteria for the Voluntary Remediation Program. The Board approved a revision to this regulation as a proposed regulation. Public comment on the proposed regulation ended December 27, 2001. This regulation is being presented to the Board for approval as a final regulation on April 25, 2002.

Transportation of Solid and Medical Wastes on State Waters, 9 VAC 20-170

This regulation establishes standards for facilities and vessels relating to the water transport of municipal solid waste and regulated medical waste. The Board approved this as a final regulation. As authorized by statute, citizens petitioned to re-open the regulation, and the effective date was suspended for additional public comment. A suit was filed challenging the regulation, but the lower court dismissed the case, since there was no final regulatory action. The plaintiffs have appealed this ruling. In addition, a federal appeals court has provided guidance on Constitutional limitations on state action, which should be considered. The Technical Advisory Committee (TAC) was reformed to consider the issues raised in the citizens' petition and the court cases. Two TAC meeting were held. A revised, final regulation is being prepared. However, additional public comment will be sought before presenting the revised, final regulation to the Board.

Regulations Governing the Commercial Transportation of Nonhazardous Municipal Solid Waste and Regulated Medical Waste by Truck, 9 VAC 20-180

The U.S. Supreme Court has let stand an injunction against the development of this regulation. Regulatory action has been terminated.

Litter Receptacle Regulations, 9 VAC 20-190

The regulation describes the responsibility of owners and operators of establishments and public places, throughout the Commonwealth, to place and maintain receptacles for receiving litter. The Board approved the regulation on September 14, 2001, as a final regulation, and the regulation became effective on November 21, 2001. It will be subject to a three-year review in 2004.